

FIRST DIVISION

[G.R. No. 184658, March 06, 2013]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. JUDGE RAFAEL R. LAGOS, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 79, JONATHAN DY Y RUBIC, CASTEL VINCI ESTACIO Y TOLENTINO, AND CARLO CASTRO Y CANDO, RESPONDENTS.

D E C I S I O N

SERENO, C.J.:

Before this Court is a special civil action for certiorari under Rule 65 seeking to reverse the following Orders in Criminal Case No. Q-07-146628 issued by public respondent Judge Rafael R. Lagos (Judge Lagos), presiding judge of the Regional Trial Court (RTC) of Quezon City, Branch 79:

1. The Order issued on 23 April 2008, *granting* respondents' Petition for Bail and Motion for Leave to File Demurrer to Evidence;^[1]
2. The Order issued on 24 June 2008 *granting* the demurrer to evidence filed by respondents and acquitting them of the crime of illegal sale of drugs punishable under Section 5, Article II, Republic Act 9165;^[2]
3. The Order issued on 24 July 2008, which: a) *denied* petitioner's Motion for Inhibition, b) *denied* petitioner's Motion for Reconsideration of the 24 July 2008 Order; and c) *granted* respondents' Motion to withdraw their cash bonds.^[3]

On 30 March 2007, at 11:00 a.m., a confidential informant (CI) appeared before the Anti-Illegal Drugs Special Operations Task Force (AIDSOTF) of the Philippine National Police (PNP) in Camp Crame, Quezon City. The CI relayed to Police Senior Inspector Fidel Fortaleza, Jr. (P S/Insp. Fortaleza) that an individual using the alias "Brian" was engaged in the illegal sale of the prohibited drug "ecstasy" in BF Homes, Parañaque City.^[4] The CI further reported that "Brian," who was later identified as herein private respondent Castel Vinci Estacio y Tolentino (Estacio), promised a commission from any transaction the former would help arrange. P S/Insp. Fortaleza, as team leader of the AIDSOTF, assembled and briefed the team that would conduct the buy-bust operation. Police Officer (PO) 2 Marlo V. Frando (PO2 Frando) was assigned to act as the poseur-buyer and PO2 Ruel P. Cubian (PO2 Cubian) as back-up, while the rest of the team members were to serve as perimeter security. P S/Insp. Fortaleza and PO2 Leonard So prepared and dusted two P500 bills for use as buy-bust money. The CI then called respondent Estacio, informing him that a prospective buyer wished to purchase thirty (30) tablets of ecstasy with a total value of P50,000.^[5] That afternoon, respondent Estacio instructed them to

proceed to Tandang Sora Avenue, Quezon City, where the transaction was to take place.^[6]

At 11:00 p.m. of the same day, Estacio alighted from a Toyota Vios car at the Jollibee branch located at the corner of Commonwealth Avenue and Tandang Sora. PO2 Frando, accompanied by the CI, approached Estacio. After PO2 Frando was introduced to Estacio as the prospective buyer, the latter demanded to see the payment. However, PO2 Frando asked him to first show the ecstasy pills.^[7] Estacio then opened the doors of the vehicle and introduced his two companions, Carlo and Jonathan (later identified as herein respondents Jonathan Dy and Carlo Castro), to PO2 Frando and the CI. Respondent Castro handed PO2 Frando one sealed plastic sachet containing several pink pills. The latter gave the "boodle" money to respondent Dy and immediately removed his baseball cap. The removal of the cap was the prearranged signal to the rest of the buy-bust team that the transaction was complete.^[8]

PO2 Frando introduced himself as a police officer and informed respondents of their constitutional rights.^[9] PO2 Cuban frisked respondent Dy and was able to recover the buy-bust money.^[10] Respondents were then escorted to the AIDSOTF office in Camp Crame, where they identified themselves as Castel Vinci Estacio y Tolentino, Carlo Castro y Cando, and Jonathan Dy y Rubic. As officer in charge of the inventory of the evidence seized, PO2 Cuban turned over the plastic sachet to PO3 Jose Rey Serrona, who was in charge of the investigation.^[11] On 31 March 2007, forensic chemist and Police Senior Inspector Yelah C. Manaog (P S/Insp. Manaog) conducted a laboratory examination of the contents of the sachet, which was completed at 10:50 a.m. that same day.^[12] The 30 pink pills were found positive for methylenedioxymethamphetamine (MDMA) hydrochloride, commonly known as ecstasy, a dangerous drug.^[13]

An Information dated 3 April 2007 was filed against respondents for the sale of dangerous drugs, in violation of Section 5, Article II of Republic Act No. (R.A.) 9165. The case was raffled to the sala of Judge Fernando Sagum, Jr. of the Quezon City RTC. Upon arraignment, respondents pleaded not guilty to the charges. Trial ensued, and the prosecution presented its evidence, including the testimonies of four witnesses: PO2 Marlo V. Frando, PO2 Ruel P. Cuban, Police Senior Inspector Yelah C. Manaog, and PO3 Jose Rey Serrona. After the prosecution submitted its Formal Offer of Evidence on 17 November 2007, respondents filed a Motion for leave of court to file their demurrer, as well as a Motion to resolve their Petition for Bail. On 2 January 2008, Judge Sagum issued a Resolution denying both the Petition for Bail and the Motion for leave of court to file a demurrer. Respondent Estacio then sought the inhibition of Judge Sagum, a move subsequently adopted by respondents Dy and Castro. On 15 January 2008, Presiding Judge Sagum inhibited himself from the case. On 31 January 2008, the case was re-raffled to public respondent Judge Lagos.

Judge Lagos issued the first assailed Order on 23 April 2008 granting respondents' Petition for Bail and allowing them to file their demurrer. On 24 June 2008, he issued the second assailed Order, **acquitting** all the accused. On Motion for Reconsideration filed by the People, he issued the third assailed Order denying the above motion and granting the Motion to Withdraw Cash Bonds filed by the accused.

Before this Court, the prosecution argues that Judge Lagos committed grave abuse of discretion tantamount to lack or excess of jurisdiction in granting the demurrer despite clear proof of the elements of the illegal sale, the existence of the *corpus delicti*, and the arrest in *flagrante delicto*.^[14] Private respondents counter that the Petition is dismissible on the ground of double jeopardy and is violative of the principle of hierarchy of courts.

We grant the petition.

Respondent judge committed grave abuse of discretion in granting the demurrer.

It has long been settled that the grant of a demurrer is tantamount to an acquittal. An acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal.^[15] This rule, however, is not without exception. The rule on double jeopardy is subject to the exercise of judicial review by way of the extraordinary writ of *certiorari* under Rule 65 of the Rules of Court. The Supreme Court is endowed with the power to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.^[16] Here, the party asking for the review must show the presence of a whimsical or capricious exercise of judgment equivalent to lack of jurisdiction; a patent and gross abuse of discretion amounting to an evasion of a positive duty or to a virtual refusal to perform a duty imposed by law or to act in contemplation of law; an exercise of power in an arbitrary and despotic manner by reason of passion and hostility; or a blatant abuse of authority to a point so grave and so severe as to deprive the court of its very power to dispense justice.^[17] In such an event, the accused cannot be considered to be at risk of double jeopardy.^[18]

The trial court declared that the testimonies of PO2 Frando, PO2 Cuban, P S/Insp. Manaog, and AIDSOTF Chief Leonardo R. Suan were insufficient to prove the culmination of the illegal sale, or to show their personal knowledge of the offer to sell and the acceptance thereof. In granting the demurrer filed by the accused, respondent judge surmised that it was the CI who had initiated the negotiation of the sale and should have thus been presented at trial.

Accused were caught in flagrante delicto; AIDSOTF police officers witnessed the actual sale.

The trial court's assessment that the witnesses had no personal knowledge of the illegal sale starkly contrasts with the facts borne out by the records. PO2 Frando was present during the negotiation and the actual buy-bust operation. PO2 Frando himself acted as the poseur-buyer and testified in open court. PO2 Cuban frisked the accused and recovered the buy-bust money; he also testified in court. P S/Insp. Manaog testified as to the *corpus delicti* of the crime; and the 30 pills of ecstasy were duly marked, identified, and presented in court. The validity of buy-bust transactions as an effective way of apprehending drug dealers in the act of committing an offense is well-settled.^[19]